

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

Civil Revision No.3764 of 2013 (O&M)

Date of decision: 30th August, 2016

Kamaljit Kaur and others

...Petitioners

Versus

Pal Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. K.B.Raheja, Advocate, for the appellants.

Mr. Abhinav Ghabroo, Advocate
for Ms. Kavita Sachdev, Advocate for the respondent.

REKHA MITTAL, J.(ORAL)

The present petition has been directed against the order dated 04.04.2013 (Annexure P-3), passed by the Civil Judge (Junior Division), Malerkotla whereby application under Order 7 Rule 11 of the Code of Civil Procedure (in short CPC), filed by the petitioners-defendants for rejection of plaint for want of payment of ad-valorem Court fee has been dismissed.

Counsel for the petitioners would submit that the respondent/plaintiff has filed a suit for declaration that he is owner in possession of land measuring 15 Bighas (detailed in the headnote of the plaint) on the premise that sale deed No.533 dated 31.08.2007 allegedly executed by him in favour of defendant Nos.1 and 2 is illegal, null, void, ineffective, without consideration and is the result of fraud and misrepresentation. It is argued that as the respondent/plaintiff is executant of the sale deed, sought to be cancelled/set aside, he is liable to pay Court fee on sale consideration mentioned in the sale deed. For this purpose, he has placed reliance upon judgment of Hon'ble the Supreme Court **Suhrid Singh alias Sardool Singh vs. Randhir Singh and others, 2010 (2) RCR (Civil) 564.**

Counsel for the respondent, on the contrary, has supported the impugned order with the submission that as the respondent-plaintiff has filed

a simplicitor suit for declaration with alternative relief of possession and consequential relief of permanent injunction, the Court fee already affixed on the plaint is sufficient. In support of his contention, he has relied upon judgment of this Court **Surjit Singh versus Karamjit Kaur 2012 (3) RCR (Civil) 364.**

I have heard learned counsel for the parties, perused the paper book particularly the plaint (Annexure P-2) and the impugned order.

As the respondent/plaintiff is executant of the sale deed, sought to be cancelled/set aside and his claim qua declaration and possession of suit land is dependent upon cancellation of the sale deed, he is liable to pay ad-valorem Court fee on sale consideration of sale deed No.533 dated 31.08.2007. The controversy raised in the present petition, is squarely covered by authoritative enunciation of law laid down by the Apex Court in **Suhrid Singh alias Sardool Singh's case** (supra). This apart, the matter with regard to payment of Court fee came up for consideration before the Division Bench of this Court in **Tarsem Singh and others versus Vinod Kumar and others 2014 (1) ICC 1054** and it was held that executant of a sale deed is liable to pay ad-valorem Court fee on sale consideration of the sale deed.

In this view of the matter, the impugned order cannot be allowed to sustain and accordingly set aside. The application is allowed and the respondent/plaintiff is given one month time to pay ad-valorem Court fee on sale consideration mentioned in the sale deed, failing which the necessary consequence in regard to rejection of plaint would ensue.

(REKHA MITTAL)
JUDGE

30th August, 2016
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